

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

ABRAHAM RUIZ,

Defendant.

CASE NO. 8:07CR329

TENTATIVE FINDINGS

The Court has received the Presentence Investigation Report (“PSR”). See Order on Sentencing Schedule, ¶ 6. The government adopted the PSR. (Filing No. 22.) The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

Although the Defendant did not file an objection to the PSR as require in ¶ 6 of the Order on Sentencing Schedule (Filing No. 19), the Addendum refers to the Defendant's objection to the lack of a downward adjustment in ¶ 27 for the safety valve. The Defendant may raise this issue at sentencing.

IT IS ORDERED:

1. The Defendant's objection to the Presentence Investigation Report (Addendum) may be raised by the Defendant at sentencing;
2. The Court's tentative findings are that the Presentence Investigation Report is correct in all respects;
3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are

required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 11th day of February, 2008.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge